

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**Case No. 3-:03-CR-126**

**Case No. 3-:06-CV-265**

**DERRICK ARMSTRONG,**

**District Judge Thomas M. Rose**

**Defendant.**

**Chief Magistrate Judge Michael R. Merz**

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**ENTRY AND ORDER OVERRULING ARMSTRONG'S OBJECTIONS (Doc. #64) TO  
THE CHIEF MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS  
REGARDING ARMSTRONG'S MOTION TO VACATE HIS SENTENCE AND  
ADOPTING THE CHIEF MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATIONS (Doc. #63) IN ITS ENTIRETY**

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This matter is now before the Court pursuant to Objections (doc. #64 in criminal case) filed by Derrick Armstrong to the Report and Recommendations issued on August 24, 2007, by Chief Magistrate Judge Michael R. Merz (doc. #63 in criminal case). The District Judge has reviewed the findings of Chief Magistrate Judge Merz. The District Judge has also made a de novo review of the record in this case pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). Upon consideration of the foregoing, the Court finds that the Armstrong's Objections are not well-taken and they are hereby OVERRULED.

The Chief Magistrate Judge's Report and Recommendations is ADOPTED in its entirety. Howard's Motion To Vacate pursuant to 28 U.S.C. § 2255 is DISMISSED on the merits WITH PREJUDICE. Further, because reasonable jurists would not disagree with this conclusion or the supporting conclusions reached in the Report and Recommendations, Howard is denied leave to appeal *in forma pauperis* and is denied any requested certificate of appealability. Finally, the

Clerk is hereby ordered to provide a copy of this Entry and Order to Derrick Armstrong and his latest address of record.

**DONE** and **ORDERED** in Dayton, Ohio, this Thirteenth day of November, 2007.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Derrick Armstrong  
Counsel of Record